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SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1. INTRODUCTION:

(A) This contract sets forth the complete agreement of the parties with regard to participation in the development/enhancement, maintenance, marketing and sale of software and/or services that allow the electronic filing of patent and trademark applications and related correspondence during the period of **the contract**. Also, except as provided below, the parties agree to comply with all relevant statutory, regulatory, and administrative requirements relating to the electronic filing program.

(B) This contract is not an exclusive right to sell/develop software or services (as there may be other contracts with the USPTO for the same or similar services/products). Nor is this a promise that the USPTO will support the product forever; USPTO reserves the right to abandon this product.

B.2 PURPOSE

The purpose of this contract is to enter into a \$0 arrangement for software and/or services that allow for the electronic filing of patent and trademark applications and related correspondence. It is expected that the contractor will, in a cooperative effort with the USPTO, develop, market, sell, and maintain software that allows for the electronic filing and correspondence of patent and trademark applications and related correspondence. **The USPTO assumes no liability for the development, marketing, sale, and maintenance of contractor software products. As part of this arrangement, the contractor shall be solely responsible for the contractor's costs associated with the development, marketing, sales, and maintenance of any of their proprietary software products, and the contractor shall be the sole recipient of any revenue generated from the use and/or sale of such software products.** It is the responsibility of the contractor to ensure that software products meet the Government's statutory and regulatory requirements relating to the filing of patent and trademark applications and related correspondence.

In order to support the development, marketing, sale, and maintenance of the contractor's software products and/or services, and, more importantly, to promote and encourage the use of electronic filing by patent and trademark applicants, the USPTO will provide and/or participate in the following:

B.2.1 The USPTO will provide a technical point of contact (POC) for the exchange of information relating to the electronic filing initiative for patent applications and related correspondence. The POC shall be responsible for answering all questions and providing information relating to the USPTO's technical and data requirements for electronic filing. As part of this contract, the USPTO will provide to the contractor USPTO-owned documentation, source code (including ePave), XML DTDs, and other information as deemed necessary and appropriate for the successful development, marketing, sale, and maintenance of contractor electronic filing software. However, the USPTO cannot provide the contractor with access to proprietary or third party software or documentation.

B.2.2 The USPTO will provide multiple sample patent applications for testing the operability of contractor electronic filing software. The USPTO will also provide a

test server and test messages that will allow for the testing/verification of contractor electronic filing software. The USPTO will participate in the testing of contractor electronic filing software only to the extent that enables verification of the receipt of electronically filed patent and trademark applications and correspondence. The USPTO will not certify the operational capabilities of any contractor electronic filing software nor will the USPTO endorse or warrant any products or services provided by the contractor.

B.2.3 The USPTO may participate in the joint marketing of the contractor's electronic filing software. Since a key component of this contract is to encourage the use of electronic filing for patent applications and correspondence, the USPTO will consider all types of cooperative marketing including joint visits to conferences/forums and joint training ventures. The USPTO will, through their website, provide the public with information about electronic filing, a list of electronic filing contractors and the available products, and links to the contractor's web site. However, the USPTO will not permit the use of the USPTO trademark/logo on any of the contractor's packaging, advertising literature, web site, or any other documentation.

B.2.4 The USPTO may consider establishing rule changes and/or incentive arrangements for the electronic filing of patent applications and correspondence. However, the USPTO cannot at this time provide specifics on either the ability to go forward with such changes or the timeframes for implementation.

In the event that the USPTO cannot provide any or all of the items listed above either in whole or in part, the USPTO will not be liable for any costs that might be incurred by the contractor. The USPTO will endeavor to provide the contractor with timely notification regarding rule and statutory changes, DTD and XML changes or additions, technological changes, operational outages, and other pertinent information.

B.2.5 The USPTO will unbundle both ePave and the portion of PASAT that we own. Any additional programming or technical support will be at the discretion of the USPTO.

### B.3 CONTRACT TYPE

This is a no-cost contract for \$0.

### B.4 ESTIMATED COSTS

The estimated cost of this contract is \$0.

### B.5 PERIOD OF PERFORMANCE AND TERMINATION:

(A) This contract shall be in effect from the date of award for one year, with (9) nine options to extend for an additional year. See Clause F.1, OPTION TO EXTEND THE TERM OF THE CONTRACT.

(B) This contract may be terminated by either party upon 30 days after receipt of written notice signed by either of the signatories to this contract or by their successors or designees. The Contractor understands that in the event the USPTO terminates this contract, the Contractor has no right to any claim against the Government, including a claim for termination costs.

B.6 52.243-7 NOTIFICATION OF CHANGES (APR 1984)

(A) Definitions. "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer.

"Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this paragraph and shall be issued to the designated representative before the SAR exercises such authority.

(B) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer by phone promptly, within 1 calendar day from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. This shall be followed up within one week with written notification. On the basis of the most accurate information available to the Contractor, the notice shall state-

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
- (3) The identification of any documents and the substance of any oral communication involved in such conduct;
- (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
- (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including-
  - (i) What contract line items have been or may be affected by the alleged change;
  - (ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
  - (iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
  - (iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
- (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(C) Continued performance. Following submission of the notice required by paragraph (B) of this clause, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the

Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) Government response. The Contracting Officer shall promptly, within 3 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either-

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under paragraphs (d)(1), (2), or (3) of this clause, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments.

(1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made-

(i) In the contract price or delivery schedule or both; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in paragraphs (b) and (c) of this clause.

Section C

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 Background Information

(a) INTRODUCTION

The United States Patent and Trademark Office (USPTO) has established a strategic information technology goal of conducting business electronically with its customers over the Internet. Current plans call for expanding its electronic commerce offerings by adding electronic filing and communication with customers. USPTO is offering the opportunity for industry to stimulate electronic filing and correspondence in regard to patent and/or trademark application filing. This is a contract for \$0 only. The Government will not fund this contract in any way.

1.1 Background

The PTO is one of the world's largest Intellectual Property Offices, processing in excess of 400,000 patent and trademark applications and in excess of 1,600,000 transactions in connection with these applications in 1999. These largely paper-based transactions include receiving and processing applications, responses to office actions, amendments, petitions, status inquiries, payments and other correspondence.

While some of the transactions are electronic, the PTO still devotes significant resources to convert much of the information provided by its customers and partners into an electronically processable format. There were 272,221 patent applications, 295,165 trademark applications, and 501,052 assignments of intellectual property rights filed in 1999. A total of 20,610 electronically filed trademark applications and a small number of patent applications were received in 1999. The USPTO Office is experiencing tremendous growth in application filings for both patents and trademarks. The patent filing growth rate for the previous five years has been 8 percent annually. In fiscal year 1999, however, PTO experienced almost a 13 percent growth rate. Similarly, the growth rate in the trademark area for the previous few years has been about 12 percent annually. Then, in fiscal year 1999, trademark filings went up over 25 percent. For 2001, the PTO is forecasting utility, plant, and reissue patent applications of 335,400 and trademark applications of 363,700. If these forecasts are realized, they will mean that patent applications have increased by more than 75 percent in five years and that trademark applications have more than doubled in six years. Such growth rates have presented challenges as well as opportunities to the USPTO and will continue to do so.

The USPTO has undertaken a number of pilot projects related to electronic filing of patent and trademark application information. The Electronic Application System (EASY) project was an early effort to implement the use of specific data tags and structured formats at the point of patent and trademark application creation and to submit structured patent application information in electronic form to USPTO using portable media (i.e. diskette). Based on USPTO customer response to the EASY pilot, the USPTO revised its electronic filing strategy to define "what" - data as defined in Document Type Definitions (DTD) - must be filed and not the "how," thus avoiding



a system that requires proprietary hardware and software to operate. Many USPTO customers use commercial-off-the-shelf (COTS) intellectual property (IP) management software products. The USPTO goal is for vendors of COTS IP management software products to enhance their offerings with tools that will enable IP practitioners to prepare electronic applications and other correspondence as XML documents in compliance with USPTO DTDs that can be accepted by USPTO.

USPTO has implemented electronic filing over the Internet for trademark applications and has also implemented an Electronic Filing System (EFS) pilot for patent applications that uses a USPTO software application ePAVE for validation, signature and secure delivery of a patent application which is discussed below in 1.1.1.2. USPTO can share the electronic filing approach and provide assistance to the COTS IP management software vendors for integrating these features into their products.

Recently, the USPTO in cooperation with the European Patent Office, Japanese Patent Office and World Intellectual Property Organization agreed upon common standards for the XML DTDs and electronic filing standards for International Applications filed under the Patent Cooperation Treaty. It was further agreed that Offices would accept national applications in the same format and complying with the same electronic filing standard. See sections 1.3.3 and 1.3.4.1 below.

This will lead in the near term to a single format and system for the electronic filing of International Applications and USPTO national and EPO applications. Over time, through application of the Patent Law Treaty (PLT), these standards will become mandatory for national electronic filings in PLT signatories.

#### (b) USPTO ELECTRONIC FILING INITIATIVES

##### 1.1.1.1 Trademark Filing

The USPTO has implemented the Trademark Electronic Application System (TEAS). TEAS allows the applicant to complete a Trademark application, check it for completeness, and submit the completed validated application directly to the USPTO over the Internet. The applicant may pay the necessary fee(s) using an on-line credit card transaction or a USPTO deposit account. In April 2000 the USPTO added additional business transactions to TEAS and will implement electronic correspondence using e-mail in the fall of 2000. XML DTD's have been defined for the 7 most common Trademark transactions. TEAS is available at <http://www.uspto.gov/web/menu/tmebc/index.html>

##### a. Patent Filing

Currently four projects, in various states of development, are designed to accept Patent related electronic materials in a manner that can be used by the USPTO's offices.

1) Electronic Filing System (EFS): The USPTO has introduced a pilot for the receipt of specially authored XML electronic versions of patent applications from participating applicants. EFS is designed to create an XML encoded document for the USPTO. EFS uses another USPTO software application, the Electronic Packaging and Validation Engine (ePAVE), which is supported by the PTO's Public Key Infrastructure that grants filers digital certificates to secure the filings. EFS relies on the ePAVE secure delivery software for the submission of the XML document to the USPTO over the Internet. The submission of biotechnology sequence information is also supported by EFS and ePAVE.

2) Sequence Listings on CD: Submission of large biotechnology sequence listings on compact disks instead of paper, to avoid the printing, scanning, storing and transporting of these potentially very large patent application files. The USPTO has developed standards for the format of such submissions and hopes to move submission to electronic communication.

3) Computer Program Listings on CD: Large computer programs are currently submitted on a microfiche that are not printed with the patent. We will require these submissions to be on CD in compliance with USPTO standards and hope to move submission to electronic communication.

4) Electronic Filing System - Pre-Grant Publication (EFS- PG Pub): In support of Pre-Grant Publication of patent applications, the USPTO completed electronic receipt, for the purpose of application publication, of resubmissions of amended versions of patent applications, of redacted versions of patent applications, of applications requested to be published early, and of applications specially requested to be published. Current plans require mandatory electronic submission of these four classes of applications.

#### b. Assignments of interests in Patents and Trademarks

A patent or trademark is personal property and may be sold to others or mortgaged; it may be bequeathed by a will, and it may pass to the heirs of a deceased owner. The USPTO records and acknowledges assignments of interest, a security interest, a merger, a lien or a free-format explanation that describes the transfer. The assignment documents along with a recordation cover sheet are scanned or faxed into the Patent and Trademark Assignment System (PTAS) and then stored (no paper is handled for faxed-in documents) until they are ready to be mailed back to the customer with either a notice of recordation or a notice of non-recordation. In 1999 USPTO conducted a pilot test for electronic submission of assignments and plans to implement a production system in October 2000. The recordation form was made part of the EFS ePAVE production release in late October 2000. XML DTDs are being defined to support electronic filing of assignments.

#### 1.1.2 Statutory Changes- General

Recent changes in the statutes have specifically enabled the USPTO to accept and promulgate documents in electronic form.

Public Law 106-113, known as the American Inventors Protection Act of 1999, included specific language in Section 4804 to authorize the electronic means of filing documents and issuing publications by electronic means. Specifically, §4804 (a) changed 35 USC §22 to read:

The Director may require papers filed in the Patent and Trademark Office to be printed, typewritten or on an electronic medium.

Section §4804(b) of the same law change 35 USC §11(a) to read:

The Director may publish in printed, typewritten or electronic form . . .

Title 17 of the Public Law 195-277 is known as The Government Paperwork Elimination Act, enacted on October 21, 1998. In that title, §1707 read as follows:

SEC. 1707. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

These laws form a statutory framework authorizing the promulgation of regulations to facilitate electronic receipt and publication of patent applications, patents and related materials.

(1) USPTO Electronic Filing and Communication Goals

Electronic filing and correspondence over time will include the two-way electronic exchange of information that the USPTO has with individual applicants and inventors, corporate filers, registered patent attorneys and agents, legal representatives, and government entities.

The USPTO has based its electronic filing and business communication initiatives on Extensible Markup Language (XML)-tagged documents and has developed standard formats for applications and most applicant/USPTO correspondence received and sent by the USPTO during the prosecution of a patent as well as post grant correspondence. Similarly, the USPTO has developed XML DTDs for trademark applications and for required post application and post registration filings. At this time some 23 patent related and 8 trademark XML documents have been defined of which a smaller number have been validated through use.

The focus of this USPTO program is to encourage COTS IP software management companies to include the ability to produce the XML encoded application documents compliant with the USPTO DTDs as part of, or as an extension to, existing software products. The USPTO also solicits contracts that focus on the implementation of the full range of XML DTDs supporting two-way correspondence as well as contracts including secure electronic delivery to the PTO. (Note: Secure electronic delivery is not requirement for trademark correspondence and, for other than credit card transactions, currently trademark Internet communications are not encrypted or otherwise secured.) The USPTO includes solicitation of contracts from corporate customers and consortia that involve the addition of the ability to produce XML encoded applications to planned or existing corporate or consortia software. It should be emphasized that a contract that relies on the USPTO ePAVE software for delivery and validation would be acceptable, as well as, one that integrates the validation and delivery as part of a vendor software application.

The goal is to provide the mechanisms to companies, independent inventors, patent and trademark practitioners, and other information exchange partners to file applications, make payments, record assignments of patents and trademarks, exchange office actions and other correspondence, and retrieve forms, publications, and other information from the USPTO with a minimum reliance on paper. Contracts including services that convert word processor documents or that include other strategies for collecting information for producing the XML documents for delivery to the USPTO are within the scope of this solicitation.

The goal of the USPTO is to improve customer service, improve quality of our work products, reduce cycle time for examining patent and trademark applications, and lower costs. Strategies include:

a. Making electronic filing of applications and correspondence, payment, and communication so simple, inexpensive, and trusted that customers will prefer these to calling or filing paper documents and mailing;

- b. Providing through RFAs for private sector XML encoding software to facilitate preparation of documents and methods for electronic filing, payment, as well as support for the full range of two way communication with the USPTO;
- c. Aggressively protecting transaction integrity, authenticity and confidentiality where appropriate and required by law;
- d. Substantially reducing electronic filing processing costs;
- e. Seeking the best people, ideas and partners to assure our success; and,
- f. Delivering the highest quality products and services as promised.

The USPTO faces the challenge of eliminating barriers by providing incentives and using competitive market forces to make progress towards: 1) USPTO's goal to electronically transact 80% of all USPTO business by the year 2003 and to receive 75% of patent applications in electronic form by 2006; and, 2) the interim goal that, to the extent practicable, most applications prepared electronically without complex work units should be filed electronically by the year 2002. Currently 68% of published patent applications have no complex work units so that these applications can be rendered as text only documents. About 40 percent of Trademark applications typically include a single image illustrating the mark while patent applications may include multiple sheets of drawings.

## 1.2 Statement of Work

The Statement of work includes the full range of two-way communication between the Contractor and the USPTO in support of USPTO business although a given Contractor may choose to address only a portion of the full range of needs. The Government will focus on the following program needs:

- Patent and Trademark application, assignment and correspondence preparation and output as an XML document complying with the appropriate USPTO's XML DTDs (8 Trademark related and 23 Patent related and 2 Assignment related) focused on the independent inventor, trademark owner, corporate patent and trademark practitioner and patent and trademark attorneys using a personal computer which may be in a networked environment.
- Work may be limited, in the case of patent applications, to production of XML patent applications that do not have complex work units (CWU). It should be noted that USPTO does not consider drawing figures to be CWUs and that 80% of Patent applications and nearly 100% of Trademark applications have drawing figures.
- To further define what PTO considers a CWU and the quantities of CWUs to be expected the following list is provided:

Aver no. patents with CWUs	-	32%
Aver no. of items in a CWU patent	-	9.29
Aver no. Tables per CWU patent	-	3.82
Aver. no. Equations per CWU patent	-	1.36
Aver no. Chemicals per CWU patent	-	3.88
Aver no. T/R's per CWU patent	-	0.23
Aver no. pages per CWU item	-	1.08

T/R's are tables containing other CWUs, i.e., equations, chemical formulas.

- Work may include electronic filings of assignments and other documents that transfer or grant interests in patents and trademarks in image form in fax format that feed into the recently implemented PTAS workflow system that automates the flow of assignment documents through the Assignment Services Program.
- The USPTO may contract for payment solutions and document and product ordering that integrate with the USPTO's Revenue Accounting and Maintenance (RAM) system and the Order Entry Management System (OEMS)
- The contract can cover electronic filing and communication programs supporting two-way communication with the USPTO using technical solutions other than the USPTO EPAVE delivery engine can be coupled with support of creation of the XML filing and correspondence DTDs. The USPTO, in support of the confidentiality and authentication needs associated with Patent application filing and correspondence, has implemented an Entrust based solution with USPTO required and supported identity proofing and grant of USPTO Certificates to authorized parties. The Contractor will address the use of the USPTO granted Certificates or otherwise leverage the Certificate grant to avoid the need for duplicating identity-proofing steps. This requirement applies only to Patent application and correspondence related communication contracts.
- The contract may address all or only one type of the three major filing categories, i.e., patents, trademarks, and/or assignments.

Contracts addressing trademark filing should use the current TEAS application as the benchmark for contracts. The development of the ability of the USPTO to receive complete XML encoded Trademark applications and correspondence in a manner similar to the patent application filing strategy may be assumed. However, trademark applications do not have the same requirements for confidentiality that patent applications have and the level of confidentiality provided by a PKI solution is not implemented in the existing USPTO TEAS submission model.

Details of the above mentioned systems and information technology programs are available in the USPTO Strategic Information Technology Plan, which can be made available to Contractors in redacted form. **The redacted security related materials may be made available to the extent necessary to those Contractors who are proposing to use alternative secure filing methodologies or services upon execution of appropriate security agreements.**

The contract may include a cooperative development and marketing campaign to communicate key messages to the public concerning the USPTO electronic filing programs and can publicize and encourage the use of electronic filing products. The USPTO will pursue incentives, including financial incentives to USPTO customers or changes to Rules of Practice, that the Contractor proposes. The Contractor must support this with convincing analysis and credibly demonstrate the likelihood of increased volumes of electronic filings of patent and trademark applications for the USPTO.

For example, a Contractor may suggest the inclusion of the "PTO electronic filing logo" on software packaging, message boards, educational material, or links from the PTO WWW site to the Contractors WWW site or other USPTO notification that the Contractor provides USPTO XML compliant electronic filing services or XML conversion tools. An example of this is the IRS e-file program. See [http://www.irs.gov/elec\\_svs/partners.html](http://www.irs.gov/elec_svs/partners.html)

USPTO will provide results from the following market research: demographic and attitudinal studies, and focus group results as well as the XML DTDs and other information developed in support of electronic filing of patent and trademark

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applications and the full range of two way correspondence with our customers both for US national filings and for application filings under the Patent Cooperation Treaty (PCT). The USPTO has considerable experience in the development of XML conversion of word processor documents and the user needs and challenges in conversion; this will be available to the Contractor.

SECTION D - PACKAGING AND MARKING

THERE ARE NO CLAUSES INCLUDED IN THIS SECTION

Section E

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION

The USPTO may inspect the work performed by the contractor upon reasonable notice to the contractor' s Authorized Representative and in a manner that will not interfere with the contractor' s performance of contract. The contractor shall provide access for this purpose to the USPTO' s Authorized Representative(s) to the location where the work is being performed. The USPTO shall also have the right to inspect the contractor' s Report(s) of the work performed as a result of this contract. The USPTO' s Authorized Representative shall provide the results of any inspections to the contractor' s Authorized Representative for any necessary resolution.

E.2 EVALUATION OF PERFORMANCE

The USPTO may evaluate the contractor' s performance of this contract and shall provide the results of this evaluation (should it be done) to the contractor, in writing, on a quarterly basis for written comment and return to the USPTO. The evaluation, including the contractor' s comments, may be used by the USPTO in considering the contractor for future contracts.



SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract unilaterally by written notice to the Contractor provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed (10) ten years.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 1352.201-70 CONTRACTING OFFICER'S AUTHORITY (MAR 2000)

The Contracting Officer is the only person authorized to make or approve any changes in any of the requirements of this contract and notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting Officer. In the event the Contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract terms and conditions, including price.

G.2 1352.201-71 CONTRACTING OFFICER'S TECHNICAL  
REPRESENTATIVE (COTR) (MAR 2000)

- a. Linda Brinson is hereby designated as the Contracting Officer's Technical Representative (COTR). The COTR may be changed at any time by the Government without prior notice to the Contractor by a unilateral modification to the Contract.

The COTR is located at:

2011 Crystal Drive, Suite 1000  
Arlington, VA 22202

Phone Number: 703-305-8812

- b. The responsibilities and limitations of the COTR are as follows:
  - (1) The COTR is responsible for the technical aspects of the project and serves as technical liaison with the Contractor.
  - (2) The COTR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the Contract price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the COTR. No such changes shall be made without the expressed prior authorization of the Contracting Officer. The COTR may designate assistant COTR(s) to act for the COTR by naming such assistant(s) in writing and transmitting a copy of such designation through the Contracting Officer to the Contractor.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 SECTION 508 OF THE REHABILITATION ACT OF 1973 COMPLIANCE

In accordance with Section 508, Subsection 508 (a)(3), the USPTO requires that all Electronic Information Technology ("EIT"), as that term is defined at FAR 2.101, delivered under this contract comply with the applicable EIT technology accessibility standards issued by the Architectural and Transportation Barriers Compliance Board set forth at 36 CFR Part 1194.

H.2 1352.209-73 COMPLIANCE WITH THE LAWS (MAR 2000)

The Contractor shall comply with all applicable laws and rules and regulations having the force of law which deal with or relate to performance hereunder or the employment by the Contractor of the employees.

H.3 SECRECY AND USAGE OF PATENT INFORMATION

This clause applies to patent applications and information received from the USPTO and not from customers of the Contractor.

A. All patent applications and the information contained therein are subject to protection against violations of the public trust under which they are submitted (35 U.S.C. §122). In addition, pursuant to secrecy order provisions of 35 U.S.C. §181-188, work under this contract may affect the national security. Information contained in any patent application file(s) are restricted to authorized Contractor personnel having a need to know.

B. Patent documents or copies of information contained therein, patent applications, and abandoned files, when furnished to the Contractor by the Government, shall be handled in accordance with the provisions of:

1. 35 U.S.C. §122
2. 18 U.S.C. §207(1)
3. 36 CFR §1.14
4. 35 U.S.C. §181-188

C. The Contractor acquires no right or privilege to use or disclose any information contained in any patent application or other patent files (provided in any form whatsoever) except as required to perform the work under the contract. Further, the Contractor shall not copy, make any use, or disclose whatsoever of any patent information contained in any patent application or related copy or data furnished to the Contractor by the Government except for performing the work procured under this contract.

D. All personnel and other representatives employed to work under this contract, or otherwise having access to patent files or data on information concerning the same, shall take the following oath, or affirmation, signed in writing:

"I do swear or affirm that I will preserve application for patents in secrecy, that I will not divulge any information concerning the same to unauthorized persons while

employed in work under contract 50-PAPT-2-01006 or any time thereafter, and that I take this obligation freely, and without any mental reservation or purpose of evasion."

E. Each employee's or other representative's signed oath, or affirmation, shall be retained in the Contractor's files, subject to inspection by authorized Government representatives.

F. The Government shall have the right to inspect without advance notice the Contractor's premises, records, and work-in-progress to determine whether adequate steps have been taken to protect the secrecy of patent information.

G. Prior to access to patent applications that have been received by the Government, the Contractor shall submit a plan for protecting patent application documents and all information contained therein. The plan must include measures to adequately protect both documents, data, and all other patent application information during all phases of staging, filming, handling, processing, storage, quality control, or other contract activities.

H. Duplication of protected information and other materials by the Contractor is forbidden except as specified in task orders.

I. The Contractor shall be responsible for returning all Government-furnished patent document items to the Government upon completion of the work for which the information is needed, and/or upon termination of the contract in accordance with the [Government Property clauses of this contract](#).

H.4 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (Aug 1996)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at FAR 2.101.

H.5 52.227-3 PATENT INDEMNITY (Apr 1984)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to-

(1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;

(2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or

(3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

H.6 CONFIDENTIALITY OF INFORMATION:

1. Any designs, equipment, and/or concepts that evolve from performance there under shall be considered as "Confidential."

2. The Contractor shall not disclose any confidential information obtained in the performance of this contract. Any presentation of any designs, equipment, or concepts based on information obtained in the performance of this contract, will be subject to review and approval by the Government's COTR before publication or dissemination, for accuracy of factual data and interpretation.

3. Except as may be required by law, the USPTO shall not disclose any confidential information of the contractor obtained during the performance of this contract. Prior to any disclosure required by law, the USPTO shall provide the contractor with at least five business days' notice of the planned disclosure.

#### H.7 RELEASE OF INFORMATION

The contractor shall provide written notice to the USPTO and obtain consent from the USPTO in advance of releasing any advertisements, press releases, or related communications for the purpose of referencing this contract. The text and purpose of the intended release shall be provided to the USPTO CO and COTR. The contractor agrees to not release any advertisement, press releases, or related communications until approval has been granted by the USPTO. Additionally, the contractor agrees to make any changes to such advertisements, press releases, or related communications as deemed necessary by the USPTO. The contractor agrees to not infer USPTO endorsement or warranting of any contractor products in their advertisements, press releases, or related communications.

#### H.8 RIGHTS IN DATA

Notwithstanding any other provision of this contract, the USPTO and the Government shall obtain no ownership or other rights of any kind in the contractor's technical data and computer software, as those terms are defined at FAR 52.227-14, or system, first produced in the performance of this contract; form, fit, or function data delivered under this contract; data delivered under this contract constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data or computer software developed or delivered under this contract. The contractor, without approval of the USPTO or the Government, may establish claim to copyright in all data and/or computer software produced or developed in connection with the performance of this contract.

#### H.9 AUTHORIZATION AND CONSENT (July 1995)

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

SECTION I - CONTRACT CLAUSES

52.213-4 TERMS AND CONDITIONS-SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (FEB 2002)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

- (1) The clauses listed below implement provisions of law or Executive order:
  - (i) 52.222-3, Convict Labor (Aug 1996) (E.O. 11755).
  - (ii) 52.225-13, Restrictions on Certain Foreign Purchases (July 2000) (E.O.'s 12722, 12724, 13059, 13067, 13121, and 13129).
  - (iii) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).
- (2) Listed below are additional clauses that apply:

- (i) Reserved
- (ii) 52.227-14 Rights in Data-General (June 1987)
- (iii) 52.232-11, Extras (Apr 1984).
- (iv) Reserved
- (v) 52.233-1, Disputes (Dec 1998).
- (vi) 52.244-6, Subcontracts for Commercial Items (Dec 2001)
- (vii) 52.245-05, Government Property .
- (viii) 52.253-1, Computer Generated Forms (Jan 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

- (1) The clauses listed below implement provisions of law or Executive order:
  - (i) Reserved
  - (ii) 52.222-21, Prohibition of Segregated Facilities (FEb 1999) (E.O. 11246)(Applies to contracts over \$10,000).
  - (iii) 52.222-26, Equal Opportunity (Feb 1999) (E.O. 11246) (Applies to contracts over \$10,000).
  - (iv) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212) (Applies to contracts of \$25,000 or more).
  - (v) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998)(29 U.S.C. 793) (Applies to contracts over \$10,000).
  - (vi) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212)(Applies to contracts of \$25,000 or more).
  - (vii) Reserved
  - (viii) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (Dec 2001) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)
  - (ix) 52.223-5, Pollution Prevention and Right-to-Know Information (Apr 1998)(E.O. 12856) (Applies to services performed on Federal facilities.
  - (x) 52.225-1, Buy American Act-Balance of Payments Program-Supplies (Feb 2000) (41 U.S.C. 10a - 10d) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use within the United States if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition-
    - (A) Is set aside for small business concerns; or
    - (B) Cannot be set aside for small business concerns (see 19.502-2), and does not exceed \$25,000).
  - (xi) Reserved
  - (xii) Reserved

(xiii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (June 2000) (46 U.S.C. 1241). (Applies to supplies transported by ocean vessels.)

(2) Listed below are additional clauses that may apply:

(i) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (July 1995) (Applies to contracts over \$25,000).

(ii) 52.211-17, Delivery of Excess Quantities (Sept 1989) (Applies to fixed-price supplies).

(iii) 52.247-29, F.o.b. Origin (June 1988) (Applies to supplies if delivery is f.o.b. origin).

(iv) 52.247-34, F.o.b. Destination (Nov 1991) (Applies to supplies if delivery is f.o.b. destination).

(c) FAR 52.252-2, Clauses Incorporated by Reference (Feb 1998). This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>



SECTION J - ATTACHMENTS

RESERVED